

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

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IN RE:

CASE NO.: 09-31419

CHAPTER 13

April Potoczak

JUDGE: Margaret M. Cangilos-Ruitz

DEBTOR(S).

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**STIPULATION OF SETTLEMENT**

**WHEREAS**, US Bank NA ("US Bank") is the holder by assignment of a Note and Mortgage, dated November 5, 2004, given by April Potoczak in the original principal amount of \$54,582.00 pledging the real property known 323 East Glen Avenue, Syracuse, New York 13205 (the "Premises"), as security; said note and mortgage were modified by Agreement dated December 28, 2006; and

**WHEREAS**, April Potoczak (the "Debtor") filed the within voluntary bankruptcy petition under Chapter 13 of the Bankruptcy Code on May 21, 2009; and

**WHEREAS**, US Bank timely filed a Proof of Claim, dated June 30, 2009 indicating total pre-petition secured arrears due and owing in the amount of \$18,331.99; and

**WHEREAS**, US Bank filed an objection to confirmation dated July 10, 2009 to the Debtor's Chapter 13 Plan, and

**WHEREAS**, Debtors objected to said Proof of Claim by Motion ("Motion") dated August 14, 2009; and

**WHEREAS**, both the confirmation hearing and the Debtor's Motion are scheduled to be heard before this Court on October 27, 2009, and the attorneys for the respective parties have resolved the issues raised in the Motion; and

**WHEREAS**, the US Bank and the Debtor have agreed to enter into this stipulation which will resolve the objection issues amicably rather than engage in further litigation; and

**NOW, THEREFORE:**

**IT IS, HEREBY STIPULATED AND AGREED**, by and between US Bank and the Debtor, by and through their undersigned attorneys that:

**ONE:** For purpose of settling Debtor's Motion Objecting to US Bank's Proof of Claim, dated June 30, 2009, US Bank agrees to the following:

- (a) The escrow shortage in the amount of \$990.21 shall be removed, and the Debtor agrees to pay any escrow shortage due at the end of the bankruptcy case.
- (b) The property inspection fee of \$354.00 will be waived.
- (c) The foreclosure attorney fees shall be reduced to \$1,000.00.
- (d) The title search fee shall be reduced to \$300.00.

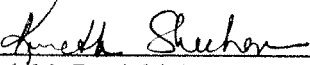
**TWO:** US Bank will file an amended Proof of Claim within 20 days of the stipulation being approved by the Court, the Debtor shall withdraw her objection to claim with prejudice and pay the amount due in the amended Proof of Claim; and

**THREE:** This stipulation shall not survive dismissal and/or conversion of the within case; and


**FOUR:** The parties hereto submit to the jurisdiction of the Bankruptcy Court with respect to all matters relating or pertaining to this Stipulation and its enforcement; and

**FIVE:** This Stipulation may be signed in counterparts and the counterparts, taken together shall be deemed a fully executed and binding stipulation, and a facsimile copy shall be deemed to have the same force and effect as an original.

Dated: October 22, 2009  
Plainview, New York

  
\_\_\_\_\_  
Rosicki, Rosicki & Associates, P.C.  
By: Kenneth Sheehan, Esq.  
Attorneys for US Bank, NA  
51 E. Bethpage Road  
Plainview, New York 11801  
(516) 741-2585

Dated: October 21, 2009  
Buffalo, New York

  
\_\_\_\_\_  
Law Office of Peter D. Grubea  
By: Peter D. Grubea, Esq.  
Attorneys for April Potoczak  
428 Delaware Avenue  
Buffalo, NY 14202

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**AFFIDAVIT OF SERVICE**

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STATE OF NEW YORK     }  
COUNTY OF NASSAU     }     ss.:

John Brocks, being duly sworn, deposes and says:

I am not a party to this action, am over 18 years of age and reside in Nassau County, New York.

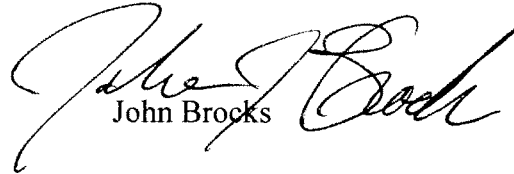
On October 22, 2009, I served the within Stipulation of Settlement on the following parties, by depositing a true copy thereof in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

April Potoczak  
323 East Glen Avenue  
Syracuse, New York 13205

Peter D. Grubea, Esq.  
Law Office of Peter D. Grubea  
482 Delaware Avenue  
Buffalo, New York 14202

Mark Swimelar, Esq.  
Trustee  
250 South Clinton Street, Suite 203  
Syracuse, New York 13202

Diana G. Adams, Esq.  
US Trustee's Office  
10 Broad Street, Room 105  
Utica, New York 13501

  
John Brooks

Sworn to before me on this  
22 day of October, 2009

  
NOTARY PUBLIC

Rose Saranogo  
Notary Public State of New York  
No. 01SA6163060  
Qualified in Suffolk County  
Commission expires March 19, 20 11

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

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IN RE:

April Potoczak,

DEBTOR(S).

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**STIPULATION OF SETTLEMENT**  
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**ROSICKI, ROSICKI & ASSOCIATES, P.C.**

Attorneys at Law  
51 East Bethpage Rd.  
Plainview, NY 11803  
516-741-2585